

KAUA‘I PLANNING COMMISSION
REGULAR MEETING
May 10, 2016

The regular meeting of the Planning Commission of the County of Kaua‘i was called to order by Chair Mahoney at 9:01 a.m., at the Lihu‘e Civic Center, Mo‘ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair Sean Mahoney
Vice Chair Louis Abrams
Mr. Wayne Katayama
Mr. Roy Ho
Mr. Kimo Keawe

Absent and Excused:
Ms. Glenda Nogami Streufert

The following staff members were present: Planning Department – Kaaina Hull, Duke Nakamatsu, Dale Cua; Deputy County Attorney Jodi Higuchi Sayegusa, Office of Boards and Commissions – Administrator Jay Furfaro, Commission Support Clerk Darcie Agaran

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Mahoney called the meeting to order at 9:01 a.m.

ROLL CALL

Deputy Planning Director Kaaina Hull: Good morning, Chair and members of the Commission. First on the agenda is Roll Call. Commissioner Abrams?

Mr. Abrams: Here.

Mr. Hull: Commissioner Keawe?

Mr. Keawe: Here.

Mr. Hull: Commissioner Katayama?

Mr. Katayama: Here.

Mr. Hull: Commissioner Ho?

Mr. Ho: Here.

Mr. Hull: Commissioner Mahoney?

Chair Mahoney: Here.

Mr. Hull: Chair, we have a quorum.

Chair Mahoney: Thank you.

MINUTES of the meeting(s) of the Planning Commission

Meeting of April 12, 2016

Mr. Hull: Next on the agenda is the review of the minutes for the meeting of April 12, 2016.

Chair Mahoney: Chair will entertain a motion for approval.

Mr. Abrams: Move to approve.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor? (Unanimous voice vote) Motion carries 5:0.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Hull: Chair, we have no additional items to receive for the record.

HEARINGS AND PUBLIC COMMENT

Continued Agency Hearing (NONE)

New Agency Hearing

Special Management Area Use Permit SMA(U)-2016-3, Class IV Zoning Permit Z-IV-2016-12, Use Permit U-2016-10 for the construction of two (2) portable classroom buildings and associated improvements on the Hanalei Elementary School campus, and Variance Permit V-2016-2 to deviate from the land coverage requirements within the Open (O) zoning district, pursuant to Section 8-9.2(a) of the Kaua'i County Code (1987), further identified as 5-5427 Kūhiō Highway, Tax Map Key 5-5-006:018, and affecting a portion of a larger parcel approx. 3.7 acres in size = State of Hawai'i, Department of Education.

Mr. Hull: We'll move on to Hearings and Public Comment. For New Agency Hearing, the first agenda item is Special Management Area Use Permit SMA(U)-2016-3, Class IV Zoning Permit Z-IV-2016-12, Use Permit U-2016-10 for the construction of two (2) portable classroom buildings and associated improvements on the Hanalei Elementary School campus, and Variance Permit V-2016-2 to deviate from land coverage requirements within the Open zoning district, pursuant to Section 8-9.2(a) of the Kaua'i County Code, further identified as 5-5427 Kūhiō Highway, Tax Map Key 5-5-006:018, and affecting a portion of a larger parcel approximately 3.7 acres in size. The applicant is State of Hawai'i, Department of Education.

Are there any members of the public (here) to testify on this agenda item?

Chair Mahoney: Is there a sign-up sheet?

Mr. Hull: We have a sign-up sheet for Will Arakaki, No.1. Bill Arakaki.

Chair Mahoney: Could you state your name for the record, please?

Bill Arakaki: Aloha. My name is Bill Arakaki.

Chair Mahoney: Oh, we're missing a microphone. Okay.

Mr. Hull: Bill, to also be clear, this is the portion of the public testimony that is limited to three (3) minutes in time, but also during the application, is when the applicant, or as well as Department of Education, is allowed to speak and further discuss the overall application item.

Chair Mahoney: Excuse me. Are you speaking as the applicant? Or...?

Mr. Arakaki: Whenever you want me to come aboard to speak, just let me know.

Chair Mahoney: Well, if you are going to speak as the applicant, maybe wait 'til the agenda item is called and...

Mr. Arakaki: Okay. Sure. No problem.

Chair Mahoney: But this is (for) any member of the public that would like to give testimony. No one else signed up?

Mr. Hull: Well, so second we have Charles Schuster.

Charles Schuster: (Inaudible). Representing the applicant.

Chair Mahoney: Okay. So you would...okay.

Mr. Hull: And then the last is Marc Ventura, but I believe Marc is also representing (the) Department of Education.

Chair Mahoney: Okay.

Mr. Hull: So is there anybody else from the public that wants to testify on this particular agenda item? Seeing none.

Class IV Zoning Permit Z-IV-2016-13 to allow construction of a warehouse facility and associated site improvements on a parcel situated at the terminus of Leleiona Street in Puhi, approx. 700 ft. south of its intersection with Puhi Road and further identified as 1821 Leleiona Street, Tax Map Key 3-3-011:004, and containing a total area of 1.095 acres = *Hawktree Land, Inc.*

Mr. Hull: The next agency hearing agenda item for public comment is Class IV Zoning Permit Z-IV-2016-13 to allow the construction of a warehouse facility and associated site improvements on a parcel situated at the terminus of Leleiona Street in Puhi, approximately 700 feet south of its intersection with Puhi Road and further identified as 1821 Leleiona Street, Tax Map Key 3-3-011:004, and containing a total area of 1.095 acres. The applicant is Hawktree Land, Inc.

We have no members signed up as this time.

Chair Mahoney: Is there any member of the public that wants to testify on this agenda item that hasn't signed up? Seeing none.

Special Management Area Use Permit SMA(U)-2016-4 to construct a farm dwelling unit (FDU) on a parcel located along the makai side of Kīlauea Lighthouse Road in Kīlauea and situated immediately adjacent to the Kīlauea Japanese cemetery, further identified as 2399 Makanaano Place, Tax Map Key 5-2-004:078, CPR Unit 2, and affecting a portion of a larger parcel containing a total land area of 9.024 acres = *Rick & Laura Giron.*

Mr. Hull: Okay. The next agenda item is Special Management Area Use Permit SMA(U)-2016-4 to construct a farm dwelling unit on a parcel located along the makai side of Kīlauea Lighthouse Road in Kīlauea and situated immediately adjacent to the Kīlauea Japanese cemetery, further identified as 2399 Makanaano Place, Tax Map Key 5-2-004:078, CPR Unit 2, and affecting a portion of a larger parcel containing a total land area of 9.024 acres.

There are no members of the public signed up at this time.

Chair Mahoney: Okay. Any member in the audience that hasn't signed up that would like to testify on this agenda item? Seeing none.

Mr. Hull: My apologies. Given that there are no members of the public testifying for the Rick and Laura Giron case, the Department would recommend, at this time, closing the agency hearing.

Chair Mahoney: Chair will entertain a motion.

Mr. Keawe: Move to close the hearing.

Mr. Ho: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 5:0.

Class IV Zoning Permit Z-IV-2016-13 to allow construction of a warehouse facility and associated site improvements on a parcel situated at the terminus of Leleiona Street in Puhi, approx. 700 ft. south of its intersection with Puhi Road and further identified as 1821 Leleiona Street, Tax Map Key 3-3-011:004, and containing a total area of 1.095 acres = Hawktree Land, Inc.

Mr. Hull: Also to...my apologies, Chair, but to return to agenda item F.2.b. concerning the Hawktree Land, Inc. Being that there is no public comment at this time, the Department would also recommend closing that agency hearing.

Chair Mahoney: Chair will entertain a motion to...

Mr. Keawe: Move to close the hearing.

Mr. Ho: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 5:0.

Mr. Hull: And for the initial item, 2.a. for State of Hawai'i, Department of Education, the Department and the Commission have received public testimony on the record, and the Department anticipates further discussion going on, so we would recommend leaving that agency hearing open, which does not require an action by this Body.

Chair Mahoney: Okay, thank you.

Continued Public Hearing (NONE)
New Public Hearing (NONE)

Mr. Hull: We do not have any continued public hearings or new public hearings.

CONSENT CALENDAR

Status Reports (NONE)

Director's Report(s) for Project(s) Scheduled for Agency Hearing on 5/24/16. (NONE)

Mr. Hull: There is nothing on the Consent Calendar.

GENERAL BUSINESS MATTERS

Amendment to Use Permit U-97-7 and Class IV Zoning Permit Z-IV-97-8 to allow private events and commercial functions at the National Tropical Botanical Gardens Visitor Center, further identified as Tax Map Key (4) 2-6-003:063, Kukui‘ula, Lāwa‘i, Kaua‘i = National Tropical Botanical Gardens (NTBG).

Mr. Hull: So we can move directly into General Business I.1. This is amendment to Use Permit U-97-7 and Class IV Zoning Permit Z-IV-97-8 to allow private events and commercial functions at the National Tropical Botanical Gardens Visitor Center, further identified as Tax Map Key (4) 2-6-003:063 in Kukui‘ula, Lāwa‘i, Kaua‘i. The applicant is National Tropical Botanical Gardens, and the staff is Dale Cua.

At this time, we actually do not have a representative for the...oh (inaudible), we do.

Chair Mahoney: Okay. At this time, we'll hear from the Planner.

Staff Planner Dale Cua: Good morning, Mr. Chair and members of the Commission. I'll skim through the Director's Report and kind of highlight portions of the report.

Mr. Cua read the Summary, Project Description and Use, and Applicant's Reasons/Justification sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: And that pretty much concludes the findings and the request of the applicant.

Chair Mahoney: Thank you. Any questions for the Planner? None. Is there a representative for the applicant? Could you state your name for the record, please?

Chipper Wichman: Aloha. Good morning, Planning Commission. I'm Chipper Wichman. I'm the Director and CEO of the National Tropical Botanical Gardens.

Laurel Loo: Laurel Loo, attorney for applicant.

Chair Mahoney: Thank you. Are there any questions for the applicant?

Mr. Abrams: Don't we have them go through a...

Chair Mahoney: A presentation. Do you have any clarification of what is being proposed?

Mr. Wichman: I think Dale did a pretty good job of describing it. It's a beautiful property and there's a big field in the middle of it. It's an ideal place for us to have events and functions; both to support the Garden, as well as to help generate the revenue that we need to undertake our conservation research and education work in the community. So, kind of, to be totally transparent, we were a little, I guess, not quite aware. I mean, it was part of our 50th anniversary. In 2014, we had a slack key concert in the meadow, and then...when we realized we weren't in

compliance. So we were really appreciative of Dale and the Planning Department in working with us to get the proper...I guess when we first got it in the 90's, we didn't, you know, we just was getting going, so now we are trying to get it...everything up snuff and, you know, properly entitled to do the events and stuff that we would like to do there. Hope you came to that concert. It was an awesome concert, too, by the way. (Laughter in background) Ledward Kaapana jamming.

Chair Mahoney: Any questions from the... Commissioner Keawe.

Mr. Keawe: I just had one (1). I want to ask Jodi. Just to let you know, I am a member of NTB. I'm also an unpaid volunteer, so I want to make sure there's no conflict. Jodi?

Deputy County Attorney Jodi Higuchi Sayegusa: I think the ordinance does...well, first of all, if you wanted the official, the official word would be with the Board of Ethics. But, you know, based on the ordinance, which does...and the Charter, you know, no benefit as a volunteer, and you are also here as a...with a diverse viewpoint and perspective, and that's why you are here as a Commissioner.

Mr. Keawe: Okay, thank you.

Chair Mahoney: Commissioner Ho.

Mr. Ho: Do you have neighbors there? I mean, residential neighbors around your property?

Mr. Wichman: The closest residential neighbor is on the other side of the road who is actually a trustee of ours; Harlan Amstutz. So there are neighbors, you know, they are all on the makai side of the road, but none of them are really, like, immediately adjacent to us. And like I said, the one directly across is actually one of our board members.

Chair Mahoney: Commissioner Katayama.

Mr. Katayama: I, too, also have to make a disclosure that, you know, the Gardens and Kaua'i Coffee has done business. I've also supported them as their non-profit organization. So, not as deeply involved as Kimo, but I do need to make that disclosure as well. (Laughter in background) I do have several questions. I think, Chipper, if you could share with the rest of the Commission that you are in the process of getting a Special Conservation district for Lāwa'i Bay. Does that include the site that you are asking for the expanded use?

Mr. Wichman: No, it doesn't. So what Wayne is referring to is, actually, in 2013, after a 7-year process, the Governor signed the rule amendment that created the Lāwa'i Kai Special Subzone, which is in the Conservation district. For the first time, actually in the history of our State, it was a Special Subzone created that included both the marine component, so the State was the co-applicant with us, as well as the terrestrial component. The terrestrial piece, the Allerton Garden, had been put in the Conservation district in the 60's at the request of John Allerton as a mechanism to conserve it in perpetuity. We developed a long-range 20-year management plan for all of the cultural, natural, and biological resources within that area, and the idea is to try and

manage it holistically, more like a traditional ahupua'a perspective where you didn't delineate marine and terrestrial resources, and really look at what's happening on the land and what's happening in the ocean are related, so that was approved in 2013.

The subject of this Special Use is a completely separate parcel, not part of that designation, not within the Conservation district, and actually was a result...kind of go back in history a little bit...was a result of a land exchange between A&B and NTBG; actually, the Allerton Garden Trust. John Allerton owned all the makai lands from the Spouting Horn around to the Bay, and we traded that to A&B for the Visitor Center site because our...we had no good Visitor Center. The Visitor Center we had in '92 was blown away by the hurricane. It was at the end of Hailima Road. It was problematic. So this seemed like a really great solution for us. A&B agreed never to develop that makai parcel. They've actually made some great improvements for pedestrian access and native plant restoration that have benefited the Shearwater populations there. And in return, we got a parcel that's great zoning, you know, Commercial, Neighborhood, and Special Treatment. It's really ideal. And with that kind of zoning, it meant that these kinds of activities that I'm bringing to you now are really not non-conforming, you know? This is the kind of thing that's appropriate to occur on Commercial Special Treatment.

So, probably more than you wanted, Wayne, but no, this is...it's kind of part and parcel because this is where the visitors all originate for down in the valley, but it's not part of that Special Subzone.

Mr. Katayama: Yeah, I think it's important for this Commission to understand that.

Mr. Wichman: Yes, thank you.

Mr. Katayama: Also, are you requesting unfettered use of the number of events to be held there? Right now, I think, the way the application is presented, there are no limits other than hourly.

Mr. Wichman: Yeah. To be honest, I hadn't thought about that aspect of it. We'd love it if we had one (1) a week, but I don't think we will...you know, we currently don't have that level of interest or business. But in terms of the community...I should also say that while we have had events like the slack key concert and others over the years, we've never ever had any complaint from a neighbor in terms of noise or anything else. And I think Recommendation No. 1 is the Planning Director reserves the right to amend this at any time should there be issues that come up in the future. But I don't think at this point we've really thought about quantifying it, so it's a good question.

Mr. Katayama: Thank you.

Chair Mahoney: Commissioner Ho.

Mr. Ho: Do you plan to have it, like, multi-use? You have two (2) events at one time?

Mr. Wichman: Probably not because...you know, just because...if you are going to have, say, a wedding in that meadow and you had another use, the guys paying for having their wedding not

going to be too happy. You know what I mean? It's...we are really trying to operate a really quality operation, and again, I hadn't...we haven't dug that deep into it, but the intent is to have events of a high quality nature. It's not about quantity, it's about quality; I guess that would be my answer.

Mr. Ho: How does a liquor license work with you? You have a liquor license?

Mr. Wichman: We do not. We've been exploring the idea of getting a liquor license, and I'm not sure exactly where that process stands. It was started a couple of years ago. So, as it stands right now, I think what we are doing...that's a great question...is we get approval for each event. Yeah, we don't have a...like a blanket liquor license.

Chair Mahoney: Commissioner Keawe.

Mr. Keawe: Just a couple, Chipper. I noticed in the report that the area could contain 1,000 people, and you are going to cap it at 500.

Mr. Wichman: Yes.

Mr. Keawe: Per event.

Mr. Wichman: Yes.

Mr. Keawe: And then all of the structures that will be set up are temporary structures.

Mr. Wichman: That's correct.

Mr. Keawe: And then I noticed if there were events that...obviously, a wedding would go into the nighttime hours, generators would be used to provide lights and illuminations.

Mr. Wichman: I'm not sure about the generators because we actually got good three-phase power there. Sometimes they prefer a generator, but...yeah. But I think the recommendations in the noise ordinance is that the music is cutoff at, like, 10:30 (p.m.), yeah?

Mr. Keawe: 10:30 (p.m.). Right.

Mr. Wichman: Yeah, so...

Mr. Keawe: Yeah. So 7:00 a.m. to 12:00 a.m....12 midnight?

Mr. Wichman: Yes.

Chair Mahoney: Any further questions for the applicant?

Mr. Abrams: One (1) for Dale actually. I guess you talked about commercial aspect in the zoning that it has, so is this entire parcel, 10 acres, zoned Commercial? Neighborhood Commercial?

Mr. Cua: Yes. The property was rezoned back in the mid 90's and it was rezoned to Neighborhood Commercial.

Mr. Abrams: Okay. And the Special Treatment Public is what...is just simply...

Mr. Cua: It was to accommodate this Visitor Center.

Mr. Abrams: The Visitor Center? Okay. So it's a public nature, then...

Mr. Cua: Correct.

Mr. Abrams: That. Is there... I feel very comfortable with Chipper wanting to make sure that it's to the public that would be included in being able to use that. What I'd like to make sure is that is a requirement, that it is available to the public, and it's a condition in the approval because someday...you never know...there may be a position there that, perhaps, the public would not be invited and it would be catering to something more. And I want to make sure that that right, since it is being Special Treatment Public, be continued there. Is that in there, Dale?

Mr. Cua: In reviewing the conditions, there is no reference to the facility being a public facility, but however, the application did say that the facility is open to the public seven (7) days a week.

Mr. Abrams: Okay. So that would be a representation, then, from...

Mr. Cua: The approval is based on the representations made in the application.

Mr. Abrams: Okay.

Mr. Cua: And in the application, as I pointed out, there are two (2) primary functions; one being for NTBG type of functions and one for private events.

Mr. Abrams: Yeah.

Mr. Cua: And for the NTBG functions, they did note that it will be available for community events.

Mr. Abrams: Okay.

Mr. Hull: And to clarify, too, Commissioner, the first condition is pretty standard for the Department to recommend that the operation be operated as represented. You can always turn back to that specific condition and say, if it is no longer being operated as represented, they may be in violation of the conditions of approval.

Mr. Abrams: Yeah. Yeah, that's what I want to make sure that there's some catch there because I'm not sure, but that's going to be very popular. And that's really great that you have made that available and I just want to make sure that that continues that way.

Chair Mahoney: Okay.

Mr. Abrams: Okay.

Mr. Wichman: And we just did a great renovation of our Visitor Center, and you are all invited. By the way, we get some amazing lego exhibits right now, too, so... (Laughter in background) No, I mean, this island has never seen anything like it. I mean, you got to come see um. I'm not making a sales pitch. I just telling you no miss the opportunity. (Laughter in background)

Mr. Keawe: Always the marketer. (Laughter in background)

Chair Mahoney: Any further questions? Commissioner Keawe.

Mr. Keawe: Nope.

Chair Mahoney: No? Any further...? Can we hear from the Planner on the recommendation?

Mr. Cua: Before I move to the conclusion and recommendation, I just wanted to kind of clarify the point that was made by Commissioner Katayama. The NTBG and Allerton Gardens property or parcel is totally separate from this particular parcel. You know, this is a 10-acre parcel that was subdivided and exclusively for the Visitor Center. So just for clarification purposes, you know, this particular parcel is a totally separate parcel from the Garden parcel.

Chair Mahoney: Thank you.

Mr. Cua read the Conclusion and the Preliminary Recommendation sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: That concludes the Department's recommendation.

Chair Mahoney: Thank you. Could the applicant return to the microphone, please? And just restate your name for the record.

Mr. Wichman: Chipper Wichman, Director and CEO of National Tropical Botanical Garden.

Chair Mahoney: Thank you. You heard the conditions. Do you have any objections or concerns about...?

Mr. Wichman: No.

Chair Mahoney: And you are able to comply with all conditions as read?

Mr. Wichman: Yes.

Chair Mahoney: Okay. Thank you. Okay, at this time, Chair will entertain a motion.

Mr. Keawe: Move to amend Use Permit U-97-7 and Class IV Zoning Permit Z-IV-97-8 to allow private events and commercial functions at the National Tropical Botanical Gardens Visitor Center.

Mr. Ho: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Was that to approve? You said amend. (Laughter in background) So just to clarify, could you...?

Mr. Keawe: Move to approve and amend.

Chair Mahoney: Oh, okay. What did we need to amend? It was already...I don't think we need an amendment.

Mr. Hull: No, yeah, so for clarification, they are requesting an amendment to the existing Class IV Zoning Permit, which was issued back in 1997.

Chair Mahoney: Okay.

Mr. Hull: So the motion was to amend those permits to allow for the represented proposals.

Chair Mahoney: Okay. I guess that clarifies that. (Laughter in background) So the motion is...

Mr. Abrams: To approve the amendments.

Chair Mahoney: Approve the amendments. Move...do we have a second?

Mr. Ho: Second.

Chair Mahoney: Okay. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 5:0.

Mr. Wichman: Thank you very much.

Chair Mahoney: Thank you. Appreciate it.

Mr. Wichman: Aloha.

Request for extension of time to construct two dwelling units for Special Management Area Use Permit SMA(U)-2014-5, on a parcel located along the makai side of Kaumuali'i Highway in Makaweli, situated approx. ¼ mile west of the Makaweli Post Office facility, Tax Map Key 1-7-006:012, and containing a total of 8.38 acres = Katherine A. Weir, Trustee of the

Katherine A. Weir Revocable Trust; Randall Sinclair Weir and Laura Gail Weir, Trustees of the Randall Sinclair Weir Revocable Trust; and Judith A. Cook.

Mr. Hull: Next on the agenda is General Business I.2. Request for extension of time to construct two (2) dwelling units for Special Management Area Use Permit SMA(U)-2014-5, on a parcel located along the makai side of Kaumuali'i Highway in Makaweli, situated approximately ¼ mile west of the Makaweli Post Office facility, Tax Map Key 1-7-006:012, and containing a total of 8.38 acres. The applicant is Katherine A. Weir, Trustee of the Katherine A. Weir Revocable Trust. And the Planner for this is Jody Galinato, but Jody had to fly to a meeting on O'ahu for Coastal Zone Management issues, so Dale Cua will be filling in for today.

Mr. Cua: Good morning, Commissioners. Again, I'll be highlighting the portions of the Director's Report.

Mr. Cua read the Summary, Project Description and Use, and Additional Findings sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: At this time, I'll leave it at that and reserve the conclusion and recommendation.

Chair Mahoney: Okay. Is there a representative for the applicant present? Will you state your name for the record, please?

Max Graham: Good morning, Planning Commission members. I'm Max Graham and I do represent the applicants in this matter. The original request was for a Special Management Area Use Permit for the construction of two (2) additional homes on this property. The property is owned by three (3) Robinson Family heirs; two (2) sisters and a brother. And it's located along the shoreline in front of Pākalā, the surf break, and actually right next to the Makaweli Landing. So we got the approval for the construction of two (2) additional homes. There is one (1) existing home on the property. A 3-unit condominium property regime has been created and the building plans for the proposed home on Unit C have actually been completed now, and we need to file for the building permit. The building plans for the Unit A...the new home on Unit A are being prepared, and in the next month, we will be filing an application for the shoreline setback determination. So things are in progress, but we need time, now, because the 2-year time limitation has run up, and I asked for two (2) years. I think the recommendation is for one (1) year, but that's...we will complete all the work in one (1) year if we need to.

Chair Mahoney: Okay. Any questions for the applicant?

Mr. Keawe: I think one of the issues, Max, was the shoreline survey for that particular property. What's the status of that?

Mr. Graham: Either...Well, the question is whether we will need to do it, so first I'm going to file the application for the shoreline determination. I believe the homes will be setback far enough. They are a couple hundred feet from the shoreline that we may not have to do the shoreline certification, but if necessary, we'll do that.

Mr. Keawe: And then there's one (1) legal transient vacation rental there.

Mr. Graham: Yes.

Mr. Keawe: In that 3-unit...

Mr. Graham: Yes.

Mr. Keawe: And the other two (2) homes, are they going to be private residences?

Mr. Graham: Yes.

Mr. Keawe: Which the applicant will live there? Or, obviously...

Mr. Graham: Or family members.

Mr. Keawe: Sometimes family members.

Mr. Graham: Yes.

Mr. Keawe: So I think the only concern, I think, we would have is if we end up having another TVR through the backdoor or something in those areas.

Mr. Graham: Right. There will be no other TVR uses on that property.

Mr. Keawe: Thank you.

Chair Mahoney: Any further questions for the applicant? Seeing none. (We'll) go back to the Planner (for the) conclusion (and) recommendation.

Mr. Cua: Okay. Sure. Thank you, Mr. Chair. Moving on to the conclusion.

Mr. Cua read the Preliminary Conclusion and Preliminary Recommendation sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: And that concludes the Department's recommendation.

Chair Mahoney: Okay. So the 1-year certification...do you have any problem with...I think you stated earlier you would comply.

Mr. Graham: We'll get it done within the one (1) year.

Chair Mahoney: Okay. Is there any further comment on the...you are willing to comply with the...? Okay. Any questions? Hearing none. Chair will entertain a motion.

Mr. Abrams: Mr. Chair, I make a motion to approve the 1-year extension for Special Management Area Use Permit SMA(U)-2014-5, Tax Map Key (4) 1-7-006:012, Makaweli, Kaua'i, Randall Sinclair Weir Trustee applicant.

Chair Mahoney: Okay. Is there a second?

Mr. Ho: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 5:0. Thank you.

Mr. Graham: Thank you very much.

COMMUNICATION (For Action)

Mr. Hull: Chair, we have...the next agenda item is Communications, which we have none for action at this time.

COMMITTEE REPORTS

Subdivision (NONE)

Mr. Hull: Committee Reports. There was no Subdivision Committee meeting on this day.

UNFINISHED BUSINESS (For Action)

Mr. Hull: And there was no Unfinished Business for (Item) L.

NEW BUSINESS

Special Management Area Use Permit SMA(U)-2016-3, Class IV Zoning Permit Z-IV-2016-12, Use Permit U-2016-10 for the construction of two (2) portable classroom buildings and associated improvements on the Hanalei Elementary School campus, and Variance Permit V-2016-2 to deviate from the land coverage requirements within the Open (O) zoning district, pursuant to Section 8-9.2(a) of the Kaua'i County Code (1987), further identified as 5-5427 Kūhiō Highway, Tax Map Key 5-5-006:018, and affecting a portion of a larger parcel approx. 3.7 acres in size = State of Hawai'i, Department of Education.

Mr. Hull: So we can move directly into New Business and referring back to Special Management Area...excuse me. For New Business, we have Special Management Area Use Permit SMA(U)-2016-3, Class IV Zoning Permit Z-IV-2016-12, Use Permit U-2016-10 for the construction of two (2) portable classroom buildings and associated improvements on the

Hanalei Elementary School campus, and Variance Permit V-2016-2 to deviate from land coverage requirements within the Open (O) zoning district, pursuant to Section 8-9.2(a) of the Kaua'i County Code, further identified as 5-5427 Kūhiō Highway, Tax Map Key 5-5-006:018, and affecting a portion of a larger parcel approximately 3.7 acres in size. The applicant is the State of Hawai'i, Department of Education. The Planner on this is, again, Dale Cua.

Mr. Cua: Okay, Commissioners, just wanted to note that the initial Director's Report was transmitted to you folks at the previous meeting on April 26, 2016. With today's packet, you have a Supplement No. 1 to the Director's Report. I'm going to go and highlight portions of the Director's Report from the April 26th meeting, which is the initial Director's Report for the application.

Mr. Cua read the Summary, Project Description and Use, and Additional Findings sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: And that pretty much concludes the Director's Report.

Chair Mahoney: Thank you. Is there a representative for the applicant? Could you come to the mic? State your name for the record.

Bill Arakaki: Good morning. My name is Bill Arakaki. I am the Complex Area Superintendent for Kaua'i. I am the Supervisor for all fifteen (15) schools on Kaua'i and one (1) school on Ni'ihau. So, good morning, Chair and Commissioners. We sent a letter, you have it there with you, as far as my testimony today in support of the portables at Hanalei Elementary School.

Thank you for your consideration of the proposed two (2) portable building classrooms at Hanalei and the Variance Permit V-2016-2. The Department of Education is in support of the two (2) portables placed at the designated location within the Hanalei campus. The background of this information, just to let you know, was initiated in response to the enrollment and additional space needed for Hanalei School. And in the back of the page, you'll see the enrollment, as far as Hanalei, the past few years. And for this school year, the actual enrollment is 296. Sometimes the school will start with 300 or more than 300 students, but at the end of the year, students do leave, you know, and things, and that's why we have the decrease in each year as far as under 300 students.

These portables will be located close to the Admin building, which is...you have the health room located there, the sidewalks are there, so it's directly in line with the Admin building. It will not obstruct any view from the parking lot or the road, as far as the beautiful scenery that you see in the mountains right behind A Building.

On April 30th, there was a lot of concern and discussion, as far as the placement of the portables, so I met with the members of the community and we talked about, you know, how this was discussed, you know, the two (2) portables, you know, one (1) Special Ed portable would be great to have there. They wanted for me to find out if we could move the portable to the right side of the...if you're facing the campus...to the right side of the A Building. Originally, the group wanted the portables to be located behind the A Building structure, which is a slight

incline and there are water issues, as far as when it rains. So that is why the original plan had the two (2) portables adjacent to the Administration right in the front area. We had a long meeting and a discussion regarding that. With the input and notes that was provided that day, I provided it to Representative Kawakami, a Board of Education Member, and a Superintendent to show that we did have this input and discussion regarding that matter. So finally, in a letter in June, I stated that we will continue with the project as the original plan. The reason being because the project supports teaching and learning for the students and staff. The portables, which will be located (adjacent) to the existing Admin building, provides that health room access, and as far as building the sidewalks and availability to get to the portables, as far as cost efficiency. And of course there is always a need of classroom space in Hanalei.

Just to let you know, Hanalei Elementary School, in the library, which we'd like to use the library as a resource for students for looking for materials and doing their projects, there is a classroom in the library itself. So that occupies the major portion of the library where you have students (inaudible) read books and do things. And in the media room, there is also another classroom. And there is a classroom in an adjacent meeting/conference room with the Special Education class. So that library has three (3) classes within that structure. So definitely the two (2) portables will support a Special Education program class and a Regular Ed class to alleviate the space and use the library as it should be.

In the letter, as you can see, you can see the enrollment each year for Hanalei School. So as the Complex Area Superintendent, I approve this...our plan as original, as far as the Hanalei portables, because we cannot have any further delays without the permitting to happen. These portables were slated to be built this summer and alleviate the class enrollment and the sizes there. So if there is continued delay, then the school will...the students will not be able to have a classroom for themselves and more space in the library to use, so I really want to kind of have this move forward and support our students and community in the Hanalei School.

Chair Mahoney: Any questions for the applicant? Commissioner Keawe.

Mr. Keawe: I have one (1) question. Bill, how long has this project been on the drawing board? How many years?

Mr. Arakaki: So it's been since 2012. There was a timeline, as far as a request from Principal Corey Nakamura, which was in the year 2012, so it's been...what is that? Four (4) years already.

Mr. Keawe: And if a delay should occur, with regard to changing location, how long would that delay take?

Mr. Arakaki: That will depend because as far as redesigning and drawing, and I think the gentleman behind me might be able to kind of explain that a little bit more. And of course the funding had been appropriated by our Legislature and (with) much more delay, we may lose the money, you know. I don't know how that process works. We don't want that to be taken away because of, you know, a delay in getting this process done, as far as the paperwork and permits.

Chair Mahoney: Any further questions? Commissioner Katayama.

Mr. Katayama: Bill, based on the current facilities in place, what's the enrollment capacity?

Mr. Arakaki: So I asked the...right here...okay, the capacity at this time is about...right now it's at...we have 296 enrolled at this time, so the capacity at this time...because they have enrollment at 326 in 2014, so the maximum is about 400 students. Now, we need...

Mr. Katayama: That's before you build these facilities?

Mr. Arakaki: Yes, as far as capacity at this time. Now, a consideration, also, is that we have many programs that come in where we need office space. For example, we have SBBH, which is our School Base Behavior Health Program, which we have psychologist and family support workers that need office space. So besides student enrollment increase, we also have program increase with people needing space to meet and do business on our campus. We kind of juggle as far as converting certain areas that may be a classroom space for office space.

Mr. Katayama: So if you were to put these two (2) classrooms, what is the new maximum enrollment?

Mr. Arakaki: So I would figure it's about 375, around there.

Mr. Katayama: Dale, how does that compute with what we think the Hanalei growth would be?

Mr. Cua: Without reviewing the census statistics...

Mr. Katayama: Well, we are doing a General Plan update now.

Mr. Cua: Right.

Mr. Katayama: As we speak.

Mr. Cua: Right now, I would have to get back to you on that information.

Mr. Arakaki: You know, as far as increase because you know there's a development that's completed out in Princeville, the portables are temporary structures. Meaning, if there are more community residents and projects being built, the school would need to put in a CIP project for a permanent type of structure, which is your cement, you know, 6, 7, 8 classroom type of building. Because, you know, these portables are, you know, there, but can be removed and can be, you know, used elsewhere, so if there is a major increase in the community, then the school would have to ask for a major CIP project to address those projections in the future, and also in other areas within the island, so another request would be submitted from the school.

Mr. Katayama: So for Hanalei School, what is the service area?

Mr. Arakaki: The service area is...because we have Kīlauea School that is up above, so all of Hanalei, Hā'ena, Wainiha, and we have geographic exceptions that come in from Princeville. So we do have...we accept students from the Princeville area.

Mr. Katayama: I guess given the weather issues for Hanalei, expanding capacity there, especially on a permanent basis, would be an interesting strategic...

Mr. Arakaki: Right, right.

Mr. Katayama: Question for the Department, I would think. Thanks, Bill.

Mr. Arakaki: Okay, thank you, Wayne.

Chair Mahoney: Any further questions?

Mr. Hull: At this time, because the Department recognizes the applicant's objections to our concerns and our recommended condition, we first came up...first we had to brief them, about a week ago, about this concern that we had and public testimony was received from residents of the area. And the Department was in, somewhat, agreement with them that preservation of that grand lawn area is in keeping with the compatibility factor and the review with the Special Management Area Permit. So we conveyed these concerns to them about a week ago and we are recognizing their objections at this point. So given that, we would ask for...the Department would ask for a deferment on this agenda item. We also see that, as Bill has pointed out, that time is of the essence, so we would ask for a very short deferment, just for two (2) weeks, essentially, to the May 24th meeting, so that we can meet with the applicant and their architect to discuss possible alternatives to, perhaps, come to some consensus on where the siting of the buildings can be.

Mr. Ho: How does that sit with you, Bill?

Mr. Arakaki: We...you know, we met on April 30th regarding the relocation of the portables, so it just depends on the timing, the cost factor as far as, you know, when...if we are going to move the portables, we would have to do another design plan and, you know, who's going to pay for that to be done? And as far as relocation, you know, to get the sidewalks, what all the extra costs would be? Is there enough funding with the original allocation provided for the original two (2) portables, you know? I'm not sure. If funding and all of that would be able to be covered if we...you determine that another site or for placement of the portable would be feasible, so there are factors regarding that.

Mr. Ho: Kaaiana, is it that important that we defer it? Can we move?

Mr. Hull: The Department would really like to come to some kind of consensus, and even if, perhaps, there is no way that they can feasibly move, then perhaps there may be mitigation measures that we can come to a consensus on the structures themselves where they are. But yeah, we understand the applicant's concern over time, but two (2) weeks is all we are really asking for to further meet with them and hopefully come to some consensus between both the Department, the applicant, as well as members of the community that have concerns over this.

Mr. Keawe: So worst-case scenario is delay for two (2) weeks and then a decision on that?

Mr. Hull: Correct.

Mr. Abrams: You have proposed another addition...condition, which basically says that the applicant shall consider relocating. Could we approve it with that clause in the original Director's Report, which were nine (9)...?

Mr. Hull: Well, given that now that...when we came out with the report, we didn't know, at that point, whether or not the applicant would be fully objecting, which we are hearing now that they are objecting to movement of it to another area, and so that's why, again, we would ask for a deferment in order to further work with the applicant.

Mr. Arakaki: And just for your information, the letter that I sent to Principal McDonald at that time, the reason why, you know, what are the ramifications of relocating the second portable? Of course, time and effort to extract the second portable from the project, additional design and construction costs to extract second portable from the project to another site. Based on availability of fiscal year funding, there is no guarantee that a new project will be...they will need to investigate the suitability of the new location, zoning, building code, accessibility, and other findings. And also, the new location of the portable...there will be, as far as ADA accommodations, you know, access to utilities and water, all of that would have to be considered, which was done in the original plan, which just means, you know, more time, more effort, and more cost. And finding the funding, you know, it's just going to delay it a little more, and I don't know how much delay that would be.

Mr. Hull: Yeah, and to be clear, we may not come out with a consensus and we may be back here in two (2) weeks and this is where the Department airs and that's where the applicant airs, and so the Commission would have to determine which side they are going to vote and pass. So we're not asking, right now, for an official movement of the building, we are just asking for extra time and just two (2) weeks to, again, just to sit down and see if we can come to some type of consensus because the concern the Department was raised relatively shortly ago and we are just now, within the past day or two, aware of the fact that they are going to be objecting to that concern. So being that there's been somewhat of a truncated or short time for us to discuss these concerns with them, we just ask, again, just for two (2) weeks to see if we might be able to find some common ground.

Chair Mahoney: Commissioner Katayama.

Mr. Abrams: Does funding run out?

Mr. Arakaki: I'm not sure. I would have to ask the Legislature.

Mr. Abrams: With the next fiscal year? Or would some...Charlie, or somebody, do you guys...are you familiar with the...?

Unidentified Speaker: I'm not certain about that.

Mr. Abrams: With the funding side. That's my main concern. I'm just thinking June is right around the corner and, you know, at that point, you have to get started. And I'm looking at the site plan and actually, I thought the way you had it tucked in there looked pretty good. Is that other area around the basketball court and that area is that...that's open play area for the kids? Is that where they do most of that, along in the courtyard?

Mr. Arakaki: Yeah.

Mr. Abrams: So there really isn't much else area. Did you have any discussions with where the parents particularly wanted to have it?

Mr. Arakaki: Yes. Yes, I did on that 30th meeting.

Mr. Abrams: Yeah.

Mr. Arakaki: They wanted it on the A-Wing. You know where the portables are located now, if you go to the right of the page, there's an entryway that has their school garden and space for a vehicle to go back and forth in that area. Also, by the Admin building, there's a roadway to go there. They wanted the portable there. The only thing, it limits the...of course the garden, and if there's an injury out at the field in the back, you know, we want accessibility on both sides, you know, kind of thing.

Mr. Hull: The...and I'll also point out, and I know concerning whether or not they can break ground say in June or if that's going to have some type of effect on their funding, I can say with the other agencies' requirements that are going to be placed on this project, the two (2) weeks won't delay it. In particular, you have the Department of Health that is their Wastewater Branch is going to require extra time for review and the SHPD is requiring an archaeological monitoring, as well as testing to be done on that site. So given those requirements, which could take place right now, the Department is just asking...those delays will prevent anything from happening in the near future, and so...

Mr. Abrams: Those reviews won't start until we give approval or deny, right?

Mr. Arakaki: Yeah, yeah.

Mr. Hull: No, the...for SHPD, they can start their archaeological monitoring plan now, but it's going to take some time.

Chair Mahoney: Could you come to the microphone, please, and state your name for the record?

Charlie Schuster: Charlie Schuster. Here on behalf of Sato & Associates in Honolulu. We are the DOE's Project Consultant. I've been working on this project for the last two (2) years. It's one of a package of five (5) different schools, seven (7) different buildings. I'd like to add one (1) thing in particular to the Director's Report that is (in) regards (to) the archaeological monitoring plan you've referenced. We did apply to SHPD for a letter request for a determination. We did get one. Planner staff has also recently consulted with the SHPD. It's not an archaeological inventory survey, which would be done before construction. It's archaeological monitoring, which would be done during construction. Essentially, it's an archaeologist standing by while the excavations are made for the strip footings, the water and sewer lines. This is a matter that happens during construction, not prior. There is no current archaeological inventory survey for this parcel. There was one done for a neighboring parcel to the west; the Hā'ena side. Essentially, they found that it was an old taro patch that had been filled in with sand and they downgraded from an

inventory survey, going out there and looking for things, to just keeping an eye and seeing that no cultural historic remnants/artifacts are found during the work. Okay.

To go further, and not to infringe on Superintendent Arakaki's presentation, the community has heard of this project a little over a year ago. Their concerns were recognized and it was, in fact, the decision of the DOE to proceed with the current location. In particular, with regards to that location, I've got a plan here if I can use the board there to show where we are. Hanalei School here. Kūhiō Highway, the entrance to the school, porte cochère, Administration building. Highlighted in yellow are two (2) new portable classrooms. They are actually a single building conjoined by a common exterior walkway. We are in a flood zone. We will have to file a flood elevation certificate. The building finish floors are above the flood elevation, but that'll be decided once they are constructed and filed with DLNR. The existing school building and the primary feature of the campus, Building A, what you see from the highway, a long, old, single-story, slightly elevated building, all in white, with a red roof sits here. The school parcel tax map boundaries are something like this. This flag lot, behind here, is used by the school for a playground and I understand they have a new basketball court constructed. Dual zoning here; Residential and, I believe, Agricultural. The school has had additional portables at the campus previously, which were relocated. How they fit through the bridge, I don't know. We have portable buildings here now. Couple...three (3) here, three (3) more over here. I believe there were buildings...portable buildings here previously. We strongly feel that the selected location for the portables is both functionally and aesthetically appropriate. Special Ed classroom about 10 inches higher than the existing walkway makes best sense. If you've got medically fragile students, as the Special Ed kids frequently may be, you want them to have direct access to the highway and out to the extent possible, okay? The building, aesthetically, has less impact on the view plain from the highway to Classroom Building A in its planned position than it would be looking across this way where, I think, some members of the community are considering they'd like to put it. There's also been suggestions to stick it off the back of Classroom Building A. I don't know that we wouldn't have setback zoning issues there, which we are not facing now.

Last item I'd like to say is that these rooms aren't intended to increase the enrollment of the school. They are intended to provide adequate appropriate space for the enrollment that the school already has. Get the classes out of the library. They don't belong having classes in the library. (Inaudible) questions?

Chair Mahoney: Any questions?

Mr. Abrams: So those three (3) portables that are over by the library side.

Unidentified Speaker: Yeah.

Mr. Abrams: They're not in the courtyard, then. So the people who wanted...I mean, the parents who wanted these two (2) classrooms, they would be also in the courtyard area?

Mr. Schuster: If one or both were relocated, there's been...you could consider to put them in the courtyard again, here. Possibly one (1) building outside the courtyard off the end of A. In either

case, we'd need a new topo survey, we'd need to investigate utilities, and I'm sure we'd be back here about those issues of lot zoning, setback, and so on.

Mr. Abrams: Thank you.

Chair Mahoney: Any further questions for the speaker? Okay, thank you for your presentation. I think at this time we have to take a caption break.

The Commission recessed this portion of the meeting at 10:10 a.m.

The Commission reconvened this portion of the meeting at 10:21 a.m.

Chair Mahoney: Call the meeting back to order. Could a member for the applicant please come back to the microphone, please? Okay. Was there any further...oh, state your name for the record, please.

Mr. Schuster: Charlie Schuster, Sato & Associates.

Chair Mahoney: Thank you. Is there any further comment from the applicant in this matter? No? Or the presentation?

Mr. Hull: Also, I want to point out that there was one (1) individual that signed up to speak from the public.

Chair Mahoney: Okay.

Mr. Hull: If you guys have no other questions for the applicant, you may also want to, at some point, allow that member to speak.

Chair Mahoney: Okay. Any further questions for the applicant at this time? We'll go for public testimony, then. Thank you.

Mr. Schuster: Thank you.

Chair Mahoney: At this time, we have to suspend the rules to receive public testimony.

Mr. Hull: The one person signed up is Jamie Debonet.

Chair Mahoney: Could you take a seat, please, and state your name for the record?

Jamie Debonet: Hi. My name is Jamie Debonet, and I'm representing...I'm a parent of two (2) kids currently in Hanalei School; Kindergarten and 3rd grade. I'm also representing the voice that has been spoken of a lot of the community members about the portables. So first off, I'd like to support Mr. Arakaki and what he's creating and the directions he's gone in bringing these portables to be able to take place at Hanalei School. They are absolutely needed as he said. You know, I know of kids that have been taken out of the school because of the disruptions that take place being in the library, so their necessity is a, you know, is a huge necessity.

I've looked at the plans that they have and that they've shown, and the community has spoken of concern of the location. In looking at it, the location of the portables, from the road it has no impact at all. You know, you look down, it doesn't obstruct the corridor. It seemingly has a large green area. But what it does impact, you know, it impacts the grand lawn area, as you described earlier, because it cuts off a whole section of the existing school and of the walkway, but also creates a narrow passageway, which is a darker area. You know, concern for the future could be what takes place in that area after hours/on weekends. It's no longer something that somebody could see from the road, but people could go in there and sit there and never be noticed at all.

The other question that I pose is that if the portables were to go in one of the alternate locations, what possibilities does that create for future development? By putting them in this location here, you are maximizing the development of the entire area. But has it been considered that if there is any need for future development by opening up the area, as in putting them in an alternate location in the back, it would impact the garden, but couldn't the garden be moved a little bit? And wouldn't that open up a whole new area of possible future use if the community grows, as the community grows? You know, has a master plan ever been brought up of having a 7th and 8th grade? I mean, it's all opening up other doors. But by keeping them in the front, would that just close the door for, you know, a possible future? You've represented all the voices after that, and I just wanted to point that out and bring that as a concern that the community has had.

Chair Mahoney: Okay. Could you wrap up your testimony? You had three (3) minutes.

Mr. Debonet: It's wrapped up.

Chair Mahoney: Okay. Well, thank you very much.

Mr. Debonet: Yeah.

Chair Mahoney: Thank you for your testimony.

Mr. Debonet: Okay, thanks.

Chair Mahoney: Okay. We'll return to the regular meeting. And at this stage, maybe we could have a representative come back to the...from the applicant come back to the microphone; or two (2). State your name for the record again.

Mr. Arakaki: Bill Arakaki, Complex Area Superintendent for Kaua'i.

Chair Mahoney: Okay.

Mr. Schuster: Charlie Schuster, Sato & Associates, Consultant.

Chair Mahoney: Okay. So to clarify things, you know, we talked about having a deferral for two (2) weeks. Would that impact you for consideration? Or would you consider that deferral? Or do you have objections to it? What would your...could you just clarify your position on it, please? Yeah.

Mr. Arakaki: We'd prefer not for it to be delayed, so that we can move forward with the permitting and move forward with the other processes that need to be done. I know you explained a little bit earlier that, you know, the process would take some time, too, but you know, that's our preference.

Chair Mahoney: Okay.

Mr. Schuster: Excuse me, Chair.

Chair Mahoney: Yes.

Mr. Schuster: To which I'd add, the project has not been before the Kaua'i County Department of Public Works, Water Supply, other agencies. We are addressing permitting at this, rather, higher level at this point. There will inevitably be time spent, delays encountered, getting the building permit and the plans through the agencies.

Chair Mahoney: Okay, thank you. Does the Department...oh, Commissioner Ho.

Mr. Ho: Mr. Arakaki, could you just take a few moments and gather your thoughts. Can you tell me why that's the best place to put those portables?

Mr. Arakaki: Well, currently, as I explained earlier, one...the Committee said that the Special Ed classroom where it's located behind the Admin, they were okay with that. The second portable was the big issue in wanting to move that, again, A Building towards the end. The reason, when we looked at it...and, again, with the design and everything that needs to be moved, (it) would be a cost factor. Also, the garden space there and access for any emergencies would be limited, so how would we be able to make sure that we have the open space for a vehicle to get back there? There is a side road that's on the Admin building towards the portables on that side of the campus, but you know, if that's blocked or something happens, you know, we want to be able to enter the back playground and basketball courts on two (2) sides.

Chair Mahoney: Any further questions for the applicant by any members of the Commission?

Mr. Keawe: Just one (1) last one. Explain to me about the funding. You keep saying that it's a potential we are going to lose the funding. How does that work? I mean, how could you possibly do something if you can't realize that you are going to get the funding?

Mr. Arakaki: Yeah, so I think the Leg. had already allocated funding for the initial project.

Mr. Keawe: And there's an expiration date on the funding?

Mr. Arakaki: Well, I think as far as what I understand is that if we need to do a new design and other things, there is going to be more cost to that, so I don't know how much of that will be available in the next legislative sessions or things, so... Maybe the funding is still there, but I don't know if there is going to be extra funding for additional design costs and, you know, what it would cost for the portable to be relocated depending on the...I'm not a construction person...you know, the height and, you know, the flood area (inaudible).

Mr. Keawe: That part I understand. So when you started this project, you had some indication of how much money you were going to be (inaudible) based on what your consultants told you.

Mr. Arakaki: Yes, we still have that. Yeah.

Mr. Keawe: And so that “x” amount was allocated assuming that it was allocated for this specific project.

Mr. Arakaki: Yes.

Mr. Keawe: There’s no expiration date on that funding.

Mr. Arakaki: Right. Yeah, it’s just the (inaudible).

Mr. Keawe: So the assumption is if we move, it’s going to cost more money.

Mr. Arakaki: Yes, yes. There will be additional costs.

Mr. Keawe: Right. But the funding is still there?

Mr. Arakaki: Yes, for the original project. Yes.

Mr. Keawe: For the original project?

Mr. Arakaki: Yes.

Chair Mahoney: Okay. Any further questions? Any comment by the Department?

Mr. Hull: Yeah, I mean, at the end of the day, I think the Department has still the recommendation of two (2) weeks, but you have the presentation from the applicant that even if we did meet with them, there’s no way that they can move it. So I can’t say no that we still would like to sit down with them over the two (2) weeks, but they have made their position clear that there’s no negotiation to be had, so... I also will point out that the condition that is being recommended is a condition to consider moving. It’s not an official mandate to move the buildings to another place. It’s just that consideration be done, so the condition that Dale has in the Supplement to the Director’s Report, like I said, is not a mandate...

Chair Mahoney: Condition 10.

Mr. Hull: It’s just a consideration.

Chair Mahoney: Commissioner Katayama.

Mr. Katayama: Kaaiana, maybe you could help me sort of materialize the...could you kind of articulate the issue and the genesis of the issue? And really could help me sort of develop, you

know, where the positioning is and what are we trying to resolve with the...you know, by the relocation. I think that's helpful.

Mr. Hull: Yeah, so the...overall, when you are looking at the Use Permit process, as well as the Special Management Area process, it's looking at compatibility with the environment, compatibility with the community, compatibility with those that live in or frequent the area. Public hearings are held and public testimony is received in order to highlight or put your finger on the pulse of what may or may not be compatible. As of recently, the Department has had communications from members that live and frequent the area. A specific piece of testimony was submitted to the Planning Commission not objecting to the increase in the square footage or the usage of portables for additional students or to meet the needs of the student population now; just that there are concerns that in placing the portables in that grand lawn area, you do impact the structure and open area of the site. And those concerns were brought recently to light or at least recently made aware to the Department, and that's what this process is about. It's to vet compatibility. Given those concerns having arisen and we recently were able to convey these concerns and our possibility of siding with those concerns, we conveyed that to the applicant and now we are hearing objections. Given these objections, and like I said, it's happened within a relatively short time, within a week or two here, we would just ask for more time to potentially discuss ways in which these concerns can be mitigated. Now, the applicants have been very clear in the sense that the proposal stands as is and there can't be any, essentially, budging on it. So what the Commission has to essentially determine right now is whether or not you folks just want to go ahead and move forward. The Department wouldn't necessarily have any full objections to that. Just, like we said, for the record, we wanted a little bit more time to discuss these concerns with them.

Mr. Katayama: So were these concerns pre or post the Department of Education's meeting with the community?

Mr. Hull: The...and I would pose specifically to Bill folks because I'm not sure exactly when they had their own individual outreach to the community because that's not a requirement of the zoning permit. We think its good practice, but they did that, so I'm not sure exactly when...yeah.

Mr. Arakaki: So when the proposal was submitted by Principal Corey Nakamura in 2012, he had met with his staff, met with his school community council, and representatives from the community. And at that time, they were able to come to a decision that he will move forward with the project and have those two (2) portables placed in the designated area. So during the year after 2012, they met with consultants and so on, as far as design and so on. Then when Principal McDonald became the principal and Mr. Nakamura left for Wilcox Elementary in 2014, this issue came up again, as far as the placement of the portables, which I addressed on April 30th of 2015. We went and heard the public, the parents, and so on that the portable...they agreed that we needed the portables, could we see if we could move the portable from the current location and design to...originally, they wanted it in the back behind by the playground. There was, you know, two (2) portables back there. Then it came...you know, let's keep the Special Education classroom next to the Admin, and move the other portable towards the end of A Building, so that was their suggestion/recommendation to me. They walked me over to the area to see what it's like. So with the notes and the recommendations from that meeting I gathered, I, again, sent it to Representative

Kawakami, Board Education Member Nancy Budd, and to our Superintendent and our Facilities Area, and they had made suggestions to me that, you know, increase of design and things would impact this project in itself, so I made the final decision in a letter on June 15th that we are going to continue with the project as originally approved and completed when Mr. Nakamura had introduced that project.

Chair Mahoney: Okay, thank you. So at this time, why don't...the Chair will entertain some motion, or if there's any discussion you want to have before we have a motion to take some action. I think we've heard the Department's position and we've heard the applicant's position, and I think we could move forward. Is there any discussion any member wants to have prior to a motion? Or the Chair will entertain a motion.

Mr. Abrams: First I want to...before I introduce the motion, I'm inclined after hearing all of this because it doesn't appear, funding wise, if, in fact, we have some agreement to move it; other than the fact that it's going to cost more money that that can be accomplished is...I don't know. I don't know whether it's going to work or not. But I do understand the Department's position in regards to wanting to have two (2) weeks to at least find out, and since I'm not convinced at this point that it shouldn't go anywhere else at this point, that it seems to be fine and I'm willing to wait for two (2) weeks, and, in effect, defer that so that they can see, even though the signs are on the wall, and then at that point, am prepared to vote. And if something comes back that they can bring to the table, then we haven't lost ground in terms of trying to get this going, so that's kind of what I would be looking towards now; would be to defer it for two (2) weeks the way the Department is requesting.

Mr. Keawe: Yeah, I think my concern is, aren't we talking about the quality of education for those keiki? And having them in cramped situations and those kinds of issues, to me, doesn't seem like that's a quality environment for the kids. And we're getting, you know, pretty concerned with where the building goes, as opposed to get the thing up so the kids can have a good environment to learn in. So that's my own personal view.

Chair Mahoney: Any further discussion? Well, the Chair will entertain a motion.

Ms. Higuchi Sayegusa: Just one (1) thing to add. I think the public agency hearing is still open, so if we are moving towards actually moving today, then you'd have to close it. But if you folks are going to defer it, then perhaps the best course of action is to keep that open.

Chair Mahoney: To keep it open first.

Ms. Higuchi Sayegusa: Yes.

Chair Mahoney: So that would be the first... So what is the motion on the floor? What is the Commission's pleasure?

Mr. Abrams: I'm going to move to defer for two (2) weeks and leave the public hearing portion open.

Chair Mahoney: Is there a second on the motion? Hearing none. The motion would fail. Okay, so then we would take action...

Mr. Abrams: Okay, that's two (2) times you guys already. (Laughter in background)

Chair Mahoney: Alright, so now...

Mr. Abrams: I don't know whether I should make any more motions since nobody like um.

Chair Mahoney: The motion to defer and the motion to close (sic) the hearing did not pass, so the Chair will entertain a further motion for action.

Mr. Schuster: Excuse me, Chair. Can I interject (inaudible) question? Is the motion or the action...

Chair Mahoney: No, I don't think so. Not at this time.

Mr. Schuster: Okay.

Chair Mahoney: Yeah. Okay, so now we need a motion to close the public hearing; number one.

Mr. Abrams: Move to close the public hearing.

Chair Mahoney: Okay, it's been moved.

Mr. Ho: Second.

Chair Mahoney: And seconded to close the public hearing. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 5:0. Hearing's closed. Now, it's appropriate at this time for a motion to...for actions.

Mr. Abrams: Okay, I move to approve Staff's report, the original one, the Director's Report of April 26, with the addition of Condition No. 10 on our Supplemental Director's Report, which was to have the applicant consider relocating it and see whether something could be worked out, but if they can't work it out, my motion is to go ahead and approve it that way.

Chair Mahoney: Okay.

Mr. Keawe: Second.

Chair Mahoney: Discussion? Okay, before we take a vote, does the applicant have any objections to the last motion that's on the floor?

Mr. Schuster: Chair, not an objection, but I'd like it to be clear if the motion applies to the three (3) permits we are here for, two (2), one (1), none, all.

Chair Mahoney: Okay, that's an important point to clarify.

Mr. Schuster: I think that needs to be made clear because it'll certainly come up down the road.

Chair Mahoney: Yes.

Mr. Abrams: Okay, well, I can re-clarify that motion.

Chair Mahoney: Okay, so would you?

Mr. Abrams: Move to approve...

Chair Mahoney: Could you withdraw your original motion?

Mr. Abrams: Withdraw my motion previously.

Mr. Keawe: Withdraw the second.

Chair Mahoney: Okay. So to clarify the motion on the floor, could you resubmit?

Mr. Abrams: Okay. My motion is to approve the Director's Report dated April 26, 2016, along with the Director's Supplement Report, Condition No. 10, to be included to approve Special Management Area Use Permit SMA(U)-2016-3, Class IV Zoning Permit Z-IV-2016-12, Use Permit U-2016-10, and Variance Permit V-2016-2, State of Hawai'i, Department of Education.

Chair Mahoney: Okay, it's been moved and seconded.

Mr. Keawe: Second.

Chair Mahoney: Second. And now we have our second. So any discussion on this? Hearing none. Are we all clear? All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 5:0. Thank you.

Mr. Schuster: Thank you.

Mr. Arakaki: So as far as the Department, what do I need to do now? Wait two (2) weeks?

Mr. Hull: No, you're done, Bill. You're free to go. We'll follow up with you guys.

Mr. Arakaki: Okay, you let me know whatever information more you need then. Okay.

Chair Mahoney: Thank you.

Class IV Zoning Permit Z-IV-2016-13 to allow construction of a warehouse facility and associated site improvements on a parcel situated at the terminus of Leleiona Street in Puhi, approx. 700 ft. south of its intersection with Puhi Road and further identified as 1821 Leleiona

Street, Tax Map Key 3-3-011:004, and containing a total area of 1.095 acres = *Hawktree Land, Inc.*

Mr. Hull: The next agenda item is Class IV Zoning Permit Z-IV-2016-13 to allow construction of a warehouse facility, associated site improvements on a parcel situated at the terminus of Leileiona Street in Puhi, approximately 700 ft. south of its intersection of Puhi Road and further identified as Tax Map Key 3-3-011:004. The applicant is Hawktree Land, Inc.

Mr. Cua: Okay. Thank you, Mr. Chair. At this time, again, I'll be highlighting portions of the Director's Report.

Mr. Cua read the Summary, Project Description and Use, and Additional Findings sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: And that concludes the Director's Report.

Chair Mahoney: Thank you. Is there a representative for the applicant present, please? Could you state your name for the record?

Laurel Loo: Good morning, Mr. Chair and Commissioners. Laurel Loo, Attorney for the applicant. And...

Ron Victorino: Good morning, Commission. Ron Victorino, General Manager, Aloha Isle Moving.

Chair Mahoney: Thank you.

Ms. Loo: Just one (1) clarification. And Dale is pinch hitting for Jody, so he may not have realized that just recently we submitted a supplement. So the warehouse is not two stories; it'll be one-story. We reduced the square footage, and there is a supplement dated May 2 where the Director's Supplement says that there is no objection from the Department to that revision.

Chair Mahoney: Okay.

Ms. Loo: So it's a one-story warehouse.

Chair Mahoney: One-story. Are there any questions for the applicant?

Mr. Keawe: So you are reducing the size of the building by square footage by the second story. Is that it?

Ms. Loo: Just by removal of the top floor.

Mr. Keawe: So it was originally 15,000 square feet. How many square feet is the new building now?

Ms. Loo: It went from a 22,000-square foot building to 17,500 square feet.

Mr. Keawe: Okay. Well, my report says 15,000-square foot, two-story warehouse. So it's to what now?

Ms. Loo: It is 17,511 square feet now. And I'm looking at F.2.b.1., which is the Director's Supplement No. 1.

Chair Mahoney: Any further questions from the Commission? Hearing none. Could we hear from the Planner?

Mr. Cua read the Preliminary Conclusion and Preliminary Recommendation sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: And that concludes the Department's recommendation.

Chair Mahoney: Is that it?

Mr. Cua: Yes.

Chair Mahoney: Thank you. Could the applicant please come back? State your name again.

Ms. Loo: Laurel Loo and Ron Victorino.

Chair Mahoney: Thank you. Did you hear the conditions? Is there...

Ms. Loo: Yes. We have no objections and we appreciate...Jody did a lot of the work on this, but Dale is just as good looking, so (inaudible). (Laughter in background)

Chair Mahoney: Okay, thank you. Okay, the Chair will entertain a motion at this time, or...

Mr. Abrams: Mr. Chair, I move to approve Class IV Zoning Permit Z-IV-2016-13, Hawktree Land, Inc.

Mr. Katayama: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 5:0. Thank you.

Ms. Loo: Thank you.

Mr. Victorino: Thank you, Commissioners.

Chair Mahoney: Thank you.

Special Management Area Use Permit SMA(U)-2016-4 to construct a farm dwelling unit (FDU) on a parcel located along the makai side of Kīlauea Lighthouse Road in Kīlauea and situated immediately adjacent to the Kīlauea Japanese cemetery, further identified as 2399 Makanaano Place, Tax Map Key 5-2-004:078, CPR Unit 2, and affecting a portion of a larger parcel containing a total land area of 9.024 acres = Rick & Laura Giron.

Mr. Hull: The next agenda item is Special Management Area Use Permit SMA(U)-2016-4 to construct a farm dwelling unit on a parcel located along the makai side of Kīlauea Lighthouse Road in Kīlauea, situated immediately adjacent to the Kīlauea Japanese cemetery, further identified as Tax Map Key 5-2-004:078, and the applicants are Rick and Laura Giron.

And again, we have Dale Cua as our Planner on this.

Chair Mahoney: Can we hear from our Planner? Thank you.

Mr. Cua: Thank you, Commissioners. Again, I'll be highlighting portions of the Director's Report.

Mr. Cua read the Summary, Project Description and Use, and Additional Findings sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: And that pretty much concludes the Director's Report.

Chair Mahoney: Thank you. Any questions for the Planner? Hearing none. Is there a representative for the applicant? Please state your name for the record.

Ms. Loo: Thank you, Mr. Chairman and Commissioners. Laurel Loo, Attorney for the applicant. And...

Tim Bradley: Tim Bradley, Architect for the Giron's.

Chair Mahoney: Thank you. Is there any comment you want to make about the project? Or...

Mr. Bradley: Rick and Laura Giron are involved with the Kendall Jackson winery group. Laura Giron is the daughter of Mr. Jackson, who has since passed on, but they're...been involved in agriculture for generations, and are very excited about making Kaua'i a full-time residence for themselves, and are embracing the agricultural use of the property. They been in that sort of business a long time and look forward to doing it here; not that they are going to do wine, but they like the idea of participating in the community on an agricultural level. Rick Giron has a brother who's a very large guy, initially a professional football player, but was injured and he's confined to a wheelchair, so the design of the home is intended to be barrier free with wide corridors and generous spaces, so that may be why the house sounds to be large. Anyway, be happy to entertain any other questions.

Chair Mahoney: Thank you. Any questions for the applicant? Commissioner Keawe.

Mr. Keawe: There's an existing home on the property now?

Mr. Bradley: This is a 3-unit CPR. The Giron's have purchased one of the CPR'd parcels. One is vacant. Both of the other parcels are owned by the same owner who did build the one (1) residence back in the 90's.

Mr. Keawe: Okay, so there is one (1) on one of the three (3) lots?

Mr. Bradley: Yes.

Mr. Keawe: And this will be a new one on the other two of the three (3) lots?

Mr. Bradley: Yes.

Mr. Keawe: Okay.

Mr. Bradley: One of the three (3). One of the three (3), yes.

Chair Mahoney: Any further questions for the applicant? Commissioner Katayama.

Mr. Katayama: What is the date of the agricultural plan that's submitted as part of the application?

Ms. Loo: That was prepared just within a few weeks of submitting the application.

Mr. Katayama: So it's this year? Or '15?

Ms. Loo: Late last year. Yes, 2015.

Mr. Katayama: So what is the status of that?

Ms. Loo: That is the plan that the applicants are going to use to go forward in developing this property.

Mr. Katayama: So currently, there's no physical development of the property?

Ms. Loo: No. It's (inaudible). Yeah, it...

Mr. Katayama: Other than the home site?

Ms. Loo: There is nothing there now. As you can see on Exhibit B, that triangle, the color photo. The property is on the lower corner; that triangular property. And on the next page, Exhibit C, just above the car that's parked there, that's the vacant lot. The fence line and the structure beyond it are on the other CPR unit.

Mr. Katayama: Say that again.

Ms. Loo: Which exhibit are you at? C?

Mr. Katayama: I'm on B...or C.

Ms. Loo: C. You see the car parked?

Mr. Katayama: Yes.

Ms. Loo: Yeah. Right above it is...it's hard to see because of the bushes, but it's a flat vacant...well, it's a vacant land, just grassed area, on the car side of the fence. The fence and the structure there are currently existing, so that's the neighboring CPR unit.

Mr. Katayama: So if I look at Exhibit B...

Ms. Loo: Right.

Mr. Katayama: Their lot is the flag lot?

Ms. Loo: Their lot...

Mr. Katayama: (Inaudible)

Ms. Loo: That entire lot in red is the parcel of record, which includes the three (3) CPR units. The unit that is being discussed right now is the lower portion of that triangle; the triangular shape.

Mr. Katayama: Nine (9) acres?

Mr. Bradley: Right at the fork of the road.

Ms. Loo: Yes, at Kīlauea and Mihi.

Mr. Katayama: Okay.

Ms. Loo: Up to that fence line that's in the aerial photo.

Mr. Katayama: Thank you. That's helpful. Thank you.

Chair Mahoney: Any further questions for the applicant?

Ms. Loo: Sorry if that wasn't clear. I just felt it was my duty as your attorney to drink lots of Kendall Jackson wine as I was preparing the application. (Laughter in background) Just to get into the mood.

Mr. Katayama: Well, I think the fiduciary responsibility of this Commission is to share that same (inaudible). (Laughter in background)

Ms. Loo: They actually run...the applicants run the La Crema vineyard, and so...

Mr. Katayama: I am an equal drinker of red wine. It's no problem. (Laughter in background)

Chair Mahoney: So we can conclude with the vino veritas, so back to our...any further questions? Any further comment for the presentation? Okay, so back to our Planner. Dale.

Mr. Cua read the Preliminary Conclusion and Preliminary Recommendation sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: And that concludes the Director's Report and recommendation.

Chair Mahoney: Any questions from any of the members for the Planner on the conditions? The applicant, any concerns about the conditions?

Ms. Loo: No objections or concerns.

Chair Mahoney: Thank you. Okay, at this time, the Chair will entertain a motion.

Mr. Keawe: I move to approve Special Management Area Use Permit SMA(U)-2016-4 to construct a farm dwelling on a parcel located along the makai side of Kīlauea Lighthouse Road in Kīlauea.

Mr. Abrams: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 5:0. Thank you.

ANNOUNCEMENTS

Topics for Future Meetings

The following scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Līhu'e Civic Center, Mo'ikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i 96766 on Tuesday, May 24, 2016.

Mr. Hull: We are now on agenda item N, Announcements. The Commission is in receipt of the topics for future meetings; particularly, pending applications. If there are questions that the Commission has at this point, we can entertain those. Seeing none.

Agenda item Announcements No. 2 is the following scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, at the Līhu'e Civic Center, Mo'ikeha Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i on Tuesday, May 24, 2016.

Oh, and then as far as topics for future meetings, the Executive Session for discussion of the Director's performance and pay, I believe.

Mr. Abrams: Yes.

Ms. Higuchi Sayegusa: Okay.

Chair Mahoney: Incorporate that. No further business. Do we need a motion to adjourn?

Mr. Keawe: Move to adjourn.


Mr. Ho: Second.

Chair Mahoney: All in favor? (Unanimous voice vote) Meeting adjourned.

ADJOURNMENT

Chair Mahoney adjourned the meeting at 11:13 a.m.

Respectfully submitted by:



Darcie Agaran,
Commission Support Clerk

() Approved as circulated (add date of meeting approval)

() Approved as amended. See minutes of _____ meeting.